

447-21/JTN

FREEHILL HOGAN & MAHAR LLP

103 Eisenhower Parkway, Suite 400

Roseland, NJ 07068

(973) 623-5514

Attorneys for Defendant

Chipotle Mexican Grill, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

GARY FEDERICO and MICHELLE

FEDERICO,

Plaintiffs,

v.

Case No. 22-cv-580

CHIPOTLE MEXICAN GRILL, INC.,
JOHN DOE (1-10) (fictitious person(s))
and/or entity(ies), and ABC CORP. (1-10)
(fictitious person(s)) and/or entity(ies)),

Defendants.

NOTICE OF REMOVAL

Removed from:

Superior Court of New Jersey

Law Division, Monmouth County

Docket: MON-L-3427-21

**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Chipotle Mexican Grill, Inc. (hereinafter the “Defendant”) hereby removes this action from the Superior Court of New Jersey, Monmouth County, to the United States District Court for the District of New Jersey, and respectfully avers as follows:

1. This Notice of Removal is made subject to the right of Defendant to appear specially and interpose any defense, including but not limited to any defenses made pursuant to Federal Rule of Civil Procedure 12(b).

2. This Honorable Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) and removal is proper pursuant to 28 U.S.C. § 1441.

3. This Honorable Court occupies the district in which this action was pending. *See* 28 U.S.C. § 110.

4. On or around October 9, 2021, plaintiffs Gary Federico and Michelle Federico (“Plaintiffs”) filed suit against Chipotle Mexican Grill, Inc. and various fictitious defendants in the Superior Court of New Jersey, Monmouth County. That case has been assigned Docket No., MON-L-3427-21. Based upon our information and belief, Chipotle Mexican Grill, Inc. is the only valid defendant identified in the Complaint. A true and correct copy of Plaintiffs’ Complaint is attached hereto as Exhibit “A”.

5. On October 22, 2021, Defendant served Plaintiffs with copies of Notices of Appearance filed by Defendant’s counsel in addition to Defendant’s Demand for Statement of Damages Claimed, requesting response to same within the statutory period of within five days of the date of service of the demand. Defendant thereafter served Plaintiffs with a good faith request for a response to the demand on November 19, 2021. True and correct copies of Defendant’s Demand for Statement of Damages Claimed and good faith request for response to same is attached hereto as Exhibit “B.”

6. Defendant timely filed its Answer on November 2, 2021. In the Answer, Defendant re-asserted a Demand for Statement of Damages Claimed, again requesting that Plaintiffs serve a written response to same within five days of service. A true and correct copy of Defendant’s Answer is attached hereto as Exhibit “C.”

7. On January 19, 2022, Plaintiffs provided a response to Defendant’s Demand for Statement of Damages Claimed in the form of an email correspondence, wherein it is asserted that

Plaintiffs claim damages of \$100,000 (One Hundred Thousand Dollars) in the instant action. (The email correspondence can be produced separately to the extent necessary if requested by this Honorable Court.)

**REMOVAL ON THE BASIS OF DIVERSITY
JURISDICTION IS PROPER AND TIMELY**

8. Upon information and belief, at all material times relevant hereto, Plaintiffs Gary and Michelle Federico were and are natural persons residing in the State of New Jersey, County of Monmouth, as stated in the Complaint. (See Exhibit “A”).

9. At all material times relevant hereto, Defendant Chipotle Mexican Grill, Inc. was at the times complained of and is now a Delaware Corporation, with an office and its principal place of business located in Newport Beach, California.

10. The parties therefore have complete diversity of citizenship insofar as Plaintiffs are citizens of New Jersey and Defendant is a citizen of Delaware and California.

11. In their Complaint, Plaintiffs sought damages for alleged personal injuries, but did not explicitly state the amount of damages alleged. (See Exhibit “A”).

12. On January 19, 2022, Plaintiffs served a response to Defendant’s Demand for Statement of Damages pursuant to New Jersey Court Rule 4:5-2 in the form of an email correspondence in which Plaintiffs asserted damages in the amount of \$100,000.00 (One Hundred Thousand Dollars), a sum which satisfies the amount in controversy requirement for diversity jurisdiction pursuant to 28 U.S.C. § 1332(a). (See Exhibit “D.”)

13. This Notice of Removal is timely, pursuant to 28 U.S.C. § 1446(b), because it is being filed within thirty (30) days of when Plaintiffs served their Response to Demand for Statement of Damages Claimed, which explicitly specified the amount of monetary damages sought. *See* 28 U.S.C. § 1446(b).

14. There are no other valid parties to this action other than those mentioned herein.

15. Pursuant to 28 U.S.C. § 1446, a copy of this Notice of Removal is being served on Plaintiffs, through their counsel, and a Notice of Removal will be filed with the Clerk of the Court for the Superior Court of New Jersey, Monmouth County.

16. Defendant reserves the right to amend or supplement this Notice of Removal and/or to urge additional arguments in support of its entitlement to remove.

WHEREFORE, Defendant prays that the action now pending against it in the Superior Court of New Jersey, Monmouth County, described above, be removed to this Honorable Court and proceed herein; that the State Court proceed no further in this litigation; and that Defendant have such other, further and different relief as this Court may deem just and proper in the premises.

Dated: Roseland, New Jersey
February 4, 2022

FREEHILL HOGAN & MAHAR LLP
Attorneys for Defendant Chipotle Mexican Grill, Inc.

By: 
Justin T. Nastro
Ryan J. Byrnes
103 Eisenhower Parkway, Suite 400
Roseland, NJ 07068
(973) 623-5514

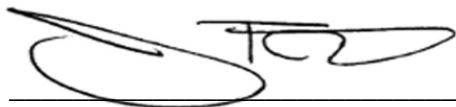
TO: Manning, Caliendo & Thomson, P.A.
Attorneys for Plaintiff
8 Broad Street
Freehold, New Jersey 07728
Attn: Daniel J. Eastmond, Esq.
deastmond@freeholdlawyers.com

CERTIFICATION OF SERVICE

I hereby certify that the foregoing Notice of Removal, was filed with the Court electronically and was served upon Plaintiffs' counsel on February 4, 2022, by electronic mail addressed to:

Manning, Caliendo & Thomson, P.A.
Attorneys for Plaintiff
8 Broad Street
Freehold, New Jersey 07728
Attn: Daniel J. Eastmond, Esq.

Dated: February 4, 2022
Roseland, New Jersey


Justin T. Nastro